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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,126	12/12/2001	Connie Sanchez	5432/0J951US0	7268

7590 06/15/2006

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EXAMINER	
GEMBEH, SHIRLEY V	

ART UNIT	PAPER NUMBER
1614	

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/021,126	SANCHEZ ET AL.	
	Examiner	Art Unit	
	Shirley V. Gembeh	1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-5 and 10-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-5 and 10-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of claims:

Claims 2-5, and 10-30 are pending.

Claims 1 and 6-9 are cancelled.

Claims 15- 30 are new.

Claims 2-5 and 10 are amended.

The response filed **March 29, 2006** presents remarks and arguments to the office action mailed **September 29, 2005**. Applicants' request for reconsideration of the rejection of claims in the last office action has been considered.

Claim Rejections - 35 USC § 102

Claims 2-5, 10, 15 and 16 rejected under 35 U.S.C. 102(b) as being anticipated by Boegeose et al. US 4,943,590.

Applicant's arguments, with respect to the above rejection have been fully considered and are persuasive. The rejection has been withdrawn.

Claim Rejections - 35 USC § 103

Claim2-5, 10-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Boegesoe et al., US 4,943,590 and Bouwer et al., use of the selective serotonin reuptake inhibitor citalopram in the treatment of generalized social phobia, J. affective Disorders 49 (1998) 79-82.

Applicant's arguments, with respect to the above rejection have been fully considered and are persuasive. The rejection has been withdrawn. Applicant has shown the unexpected result.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 2-5 and 10 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3-6 of U.S. Patent No. 6,960,613. Although the conflicting claims are not identical, they are not patentably distinct from each other the reasons are as follows:

Both sets of claims refer to treating a form of anxiety disorder (genus) – panic disorder in the current application (claims 2-5 and 10) and post traumatic disorder (claims 1-3-6) in the patented claims. The current application claims anticipate the patented claims

Both applications recite using the same compositions and/or derivatives thereof. See current application claims 2-5 and 10 and patented claims 1, 3-6. The compositions recited in the claims are anticipatory of each other.

As to the instant application claims 11-30, these claims refer to a method of treating different species of panic disorders such as social phobias, agoraphobia with the same composition or derivatives thereof. The treatment would have been treated with the compositions used in the claimed claims 1-14 in the patented claims because the claims are directed to the method of treatment of post traumatic disorders thus, the method of treating post traumatic disorders would treat a specie of post traumatic disorder in claims 11-30 and therefore are part of the obvious variation of the patented claims compared to the current application claims.

In view of the foregoing, the copending application claims and the current application claims are obvious variations.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley V. Gembeh whose telephone number is 571-272-8504. The examiner can normally be reached on 8:30 -5:00, Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SVG
6/9/06

Ardin H. Marschel 6/12/06
ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER